

REMARKS

Claim Rejections – 35 U.S.C. § 102

Claims 1-11 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. App. Pub. No. 2004/0126654 in the name of Sudano et al.

Accompanying the instant reply is an affidavit (declaration pursuant to 37 C.F.R. § 1.68) under 37 C.F.R. § 1.131 by the inventors in the present application, establishing invention of the subject matter of claims 1-11 prior to the effective date of *Sudano et al.* The declaration attests to factual evidence, and to the veracity of that factual evidence, demonstrating that the inventors completed and had possession of the present invention prior to the December 27, 2002 filing date of *Sudano et al.*

The factual evidence is in the form of: An invention disclosure comprising a one-page coversheet (stamped "22" at the top); Two pages (stamped "23" and "24" at the top) constituting an internal instruction/assignment form and details categorizing and initially evaluating the invention and listing known prior art; and four pages (stamped "25" through "28" at the top) constituting draft claims and supporting description, whose English rendering immediately follows those pages.

Based on the facts set forth in, and the dates attested by, the accompanying Rule 131 declaration and attached documentary evidence, enumerated in the previous paragraph, it is believed that the following conclusions may be drawn.

1. The attached documentary evidence proves conception of the invention at the latest by December 24, 2002, hence prior to the December 27, 2002 effective date of *Sudano et al.*, coupled with due diligence from prior to December 27, 2002 to the filing of Japanese Pat. App. No. 2003-006113, the counterpart to the instant application, on January 14, 2003. That is, the filing of Japanese Pat. App. No. 2003-006113 on January 14, 2003 is a clear showing of diligence in reducing the present invention to practice.
2. The attached documentary evidence establishes possession of the whole invention as recited in the claims. (Claims 1-7 on filing, prior to Applicant's preliminary amendment editorially revising the claims and repeating claims 3 and 7 as new claims to avoid multiple dependencies, were essentially the same as draft claims 1-7, presented on the page stamped "25" in the accompanying documentary evidence.)
3. Inasmuch as Japan is a WTO member country, the accompanying Rule 131 declaration and attached documentary evidence disqualifies *Sudano et al.* as a 102(e) reference.

It is respectfully submitted that for the foregoing reasons claims 1-11 in their current form should be held allowable over the prior art of record.

Certification of Translation of Documentary Evidence

Applicant's undersigned representative, by his signature below, attests to being translation-competent in Japanese and certifies the English rendering, as being made by him in as faithful and accurate a manner as possible, of pages stamped "25" through "28" of the documentary evidence.

Conclusion

Accordingly, Applicant courteously urges that this application is in condition for allowance. Reconsideration and withdrawal of the rejections is requested. Favorable action by the Examiner at an early date is solicited.

Respectfully submitted,

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/James Judge/

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